



ORDINANCE NO. 2018- 22

AN ORDINANCE AMENDING SUBSECTION 1-6-J OF THE UTAH COUNTY LAND USE ORDINANCE, RELATED TO NONCONFORMING LOTS OF RECORD

WHEREAS, Ryan Schramm initiated a review of the Utah County Land Use Ordinance (UCLUO), dealing with amending Subsection 1-6-J of the Utah County Land Use Ordinance, related to nonconforming lots of record; and

WHEREAS, the Planning Commission addressed the proposed amendment to the Utah County Land Use Ordinance during the regularly scheduled meeting of the Planning Commission, on May 15, 2018, and made a recommendation to the Board of County Commissioners regarding the proposed amendment; and

WHEREAS, a public hearing regarding the proposed amendment was scheduled and held during the regularly scheduled meeting of the Planning Commission, on May 15, 2018; and

WHEREAS, the Board of County Commissioners has received and carefully reviewed the recommendation from the Planning Commission regarding the proposed amendment, the minutes of the May 15, 2018 Utah County Planning Commission meeting, and the public hearing regarding the proposed amendment to the Utah County Land Use Ordinance; and

WHEREAS, the Board of County Commissioners has received and carefully reviewed the input, documents, and testimony from the public regarding the proposed amendment to the Utah County Land Use Ordinance; and

WHEREAS, the proposed amendment to the Utah County Land Use Ordinance was revised after review by the Board of County Commissioners; and

WHEREAS, the Board of County Commissioners finds the proposed, revised amendment to the Utah County Land Use Ordinance conforms to the Utah County General Plan, 2014, and is consistent with the other provisions of the Utah County Land Use Ordinance; and

WHEREAS, the Board of County Commissioners finds that the proposed, revised amendment to the Utah County Land Use Ordinance is in the best interest of the health, safety, and welfare of the citizens of Utah County, considering all factors.

NOW, THEREFORE, THE COUNTY LEGISLATIVE BODY OF UTAH COUNTY ORDAINS AS FOLLOWS:

Part I:

ENT 96424:2018 PG 1 of 3
JEFFERY SMITH
UTAH COUNTY RECORDER
2018 Oct 08 4:42 pm FEE 0.00 BY MA
RECORDED FOR UTAH COUNTY COMMISSIONERS

Subsection 1-6-J of the Utah County Land Use Ordinance is hereby amended to read as follows:

1-6: NONCONFORMING USES AND NONCOMPLYING STRUCTURES

J. NONCONFORMING LOT OF RECORD

1. A nonconforming lot of record which conforms with every provision and requirement of this ordinance for a one-family dwelling or manufactured home, except for the required lot area and/or required lot width along the side abutting a state or county road, may be granted a building permit for a one-family dwelling or manufactured home, notwithstanding such deficiency in lot area or width, provided:
 - a. The lot lies in the RR-5, TR-5, CE-1, CE-2, M&G-1, or RA-5 zone;
 - b. The lot has existed continuously on the official records of the County Clerk or Recorder as an independent parcel since before the effective date of the lot area or width provision of the Land Use Ordinance amendment (or the initial enactment) which rendered such lot unbuildable;
 - c. The lot owner dedicates ownership of the portion of the lot, which lies in the right-of-way, to the County or other applicable governmental entity, unless the County or other governmental entity elects to decline receiving the dedication;
 - d. If the lot lies in the RA-5 Zone, it shall possess an area of at least 90-percent of the minimum area of a zoning lot for a one-family dwelling or manufactured home, prior to the required dedication of right-of-way; and
 - e. Every provision and requirement of this ordinance, except for said area and width requirement, is met.
2. No provision of this Ordinance shall render an existing, platted lot unbuildable because it does not meet the lot area or width requirements of the zoning district in which it lies.
3. The right to obtain a building permit for a one-family dwelling or manufactured home on a nonconforming lot of record, as described in this subsection, can be transferred from the nonconforming lot (sending lot) to another lot (receiving lot) if all of the following conditions are found to exist:
 - a. The sending lot is a lot in private ownership located within or adjacent to the boundaries of a United States National Forest;
 - b. The sending lot meets all of the requirements, as a nonconforming lot of record, to obtain a building permit for a one-family dwelling or manufactured home;
 - c. The receiving lot is owned by the United States of America and is exchanged, in whole or in part, for all of the sending lot;
 - d. The receiving lot and the sending lot are adjacent parcels of property, or are separated by a distance of not more than one half mile;
 - e. Both the sending lot and the receiving lot are located within the CE-1 Critical Environmental Zone;
 - f. The area of the receiving lot is equal to or greater than the area of the sending lot; and
 - g. The receiving lot meets every provision and requirement of this ordinance to obtain a building permit for a one-family dwelling or manufactured home, except for the lot area and frontage width requirement.

Part II:

A copy of the Utah County Land Use Ordinance, as amended herein, is hereby ordered to be filed in the office of the Utah County Clerk/Auditor.

Part III:

If any of the sections, sentences, clauses or provisions of this ordinance shall for any reason be adjudged inapplicable or invalid by a court of competent jurisdiction, such shall not affect or invalidate the remaining portion contained herein.

Part IV:

This ordinance shall become effective fifteen (15) days after it is passed and upon at least one (1) publication in a newspaper published in and having general circulation in Utah County.

PASSED and ordered published this 18th day of September 2018.

UTAH COUNTY COMMISSION

VOTE



NATHAN IVIE, CHAIR

aye



WILLIAM C. LEE, VICE-CHAIR


aye

— absent —

GREG GRAVES, COMMISSIONER

o

ATTEST:
BRYAN E. THOMPSON
County Clerk/Auditor

By: 

Deputy



APPROVED AS TO FORM:
JEFFREY R. BUHMAN
County Attorney

Approved

Disapproved

By: 

Deputy

Date of Publication: Once only, as soon as possible

May 15, 2018

(Continued from the March 27, 2018 County Commission Meeting)

UTAH COUNTY PLANNING COMMISSION STAFF REPORT

- I. APPLICATION: (Public Hearing)
 - A. APPLICANT - Ryan Schramm
 - B. REQUEST - Proposed Utah County Land Use Ordinance text amendment to Subsection 2-2-A, relative to the definition of "Subdivision"
 - C. LOCATION - Unincorporated Utah County

UPDATE

The applicant's proposal—to amend the definition of Subdivision—was continued to the May 15, 2018 Planning Commission meeting to allow for time to explore alternatives to address the applicant's desire to make his parcel (tax parcel 30:033:0052) eligible for a building permit for a dwelling.

Staff has frequently communicated with the applicant since the March Planning Commission meeting. Rather than discussing amendment of the definition of Subdivision, which staff is not supportive of (see below in the original staff report) staff and the applicant have discussing two (2) additional avenues for addressing the applicant's desire to make his parcel eligible for a permit for a dwelling, namely: (1) taking the parcel through the subdivision process and (2) proposing an amendment of Subsection 1-6-J of the Utah County Land Use Ordinance, which would allow (legal) nonconforming lots of record in the Residential Agricultural (RA-5) Zone to become eligible for permits for one-family dwellings or manufactured homes (they are currently not eligible).

The applicant would need to increase the area of his parcel if he proposes to take it through the subdivision process because a dedication of road right-of-way would be required. County records show the subject parcel being four-thousandths of an acre short of the required area for the RA-5 Zone. A required road dedication would leave the parcel even further below the required area minimum for the RA-5 Zone. The applicant could seek to increase the size of his parcel to take it through the subdivision process; however, instead he proposes that Subsection 1-6-J of the Utah County Land Use Ordinance (Ordinance) be amended to allow (legal) nonconforming lots of record in the Residential Agricultural (RA-5) Zone to become eligible for permits for one-family dwellings or manufactured homes (staff is not suggesting that the proposal to amend the definition of Subdivision is no longer an option in relation to this application).

Staff did research and found there are approximately 3000 tax parcels in the RA-5 Zone that are less than five (5) acres. Of these parcels, approximately 600 of them seem to be positioned (somewhat) to potentially benefit from the applicant's updated, proposed text amendment. These approximately 600 parcels have an area between one (1) and 4.99 acres (this matters because of historic zone requirements), are within 60 feet of the centerline of a public road, and do not appear to currently have a dwelling. It seems somewhat safe to assume at least some of these approximately 600 parcels were created by an unapproved division of land, which means they would not be considered (legal) nonconforming lots of record. The number of parcels that would benefit from the updated proposal would be further decreased by excluding road parcels and other abnormally shaped parcels whose configuration render them unbuildable. Nevertheless, there are a high number of parcels that could become eligible dwelling sites if

the updated, proposed amendment is approved.

Concerning the original intent of excluding nonconforming lots of record in the RA-5 Zone from being eligible for building permits for homes, such original intent was not readily apparent in Community Development and prior application records. This exclusion appears to have first been included in Utah County's Zoning or Land Use Ordinance in 1984. Staff believes the original intent may have been to limit the number of dwelling sites in the agricultural areas of unincorporated Utah County near cities, such as those areas west of Spanish Fork and Payson, as well as those areas west of American Fork and south and west of Lehi. This desire may have been particularly keen in the late 1970s and 1980s, which may be evidenced by the stronger zoning requirements to encourage and facilitate the preservation of agricultural land.

Staff is somewhat concerned about the potential number of eligible dwelling sites this proposal could bring about and would prefer to see the establishment of dwelling sites occur through the subdivision process because said process establishes dwelling sites that conform with all of the zoning and subdivision requirements.

UPDATED PROPOSAL

Subsection 1-6-J of the Utah County Land Use Ordinance is proposed to be amended as follows, (additions are in red, underlined font):

1-6: NONCONFORMING USES AND NONCOMPLYING STRUCTURES

J. NONCONFORMING LOT OF RECORD

1. A nonconforming lot of record which conforms with every provision and requirement of this ordinance for a one-family dwelling or manufactured home, except for the required lot area and/or required lot width along the side abutting a state or county road, may be granted a building permit for a one-family dwelling or manufactured home notwithstanding such deficiency in lot area or width provided:
 - a. The lot lies in the RA-5, RR-5, TR-5, CE-1, CE-2, or M&G-1 zone;
 - b. The lot has existed continuously on the official records of the County Clerk or Recorder as an independent parcel since before the effective date of the lot area or width provision of the Land Use Ordinance amendment (or the initial enactment) which rendered such lot unbuildable; and
 - c. Every provision and requirement of this ordinance, except for said area and width requirement, is met.
2. The right to obtain a building permit for a one-family dwelling or manufactured home on a nonconforming lot of record, as described in this subsection, can be transferred from the nonconforming lot (sending lot) to another lot (receiving lot) if all of the following conditions are found to exist:
 - a. The sending lot is a lot in private ownership located within or adjacent to the boundaries of a United States National Forest;
 - b. The sending lot meets all of the requirements, as a nonconforming lot of record, to obtain a building permit for a one-family dwelling or manufactured home;
 - c. The receiving lot is owned by the United States of America and is exchanged, in whole or in part, for all of the sending lot;
 - d. The receiving lot and the sending lot are adjacent parcels of property, or are separated by a distance of not more than one half mile;
 - e. Both the sending lot and the receiving lot are located within the CE-1 Critical Environmental Zone;
 - f. The area of the receiving lot is equal to or greater than the area of the sending lot; and

- g. The receiving lot meets every provision and requirement of this ordinance to obtain a building permit for a one-family dwelling or manufactured home, except for the lot area and frontage width requirement.

Applicable Ordinances and Statutes

1. **Subsection 1-2** of the Utah County Land Use Ordinance identifies the intent and purposes of the Ordinance.
2. **Subsection 1-6-J** of the Utah County Land Use Ordinance establishes requirements relative to nonconforming lots of record
3. **Subsection 7-23-C and Section 7-25** of the Utah County Land Use Ordinance establish the criteria for Planning Commission recommendation of approval to the County Commission for any land use ordinance or zone map amendment.

UPDATED STAFF FINDINGS

1. The application for a zone map amendment must meet the requirements of Section 7-23-C-1 of the Utah County Land Use Ordinance, which requires the amendment to conform to the land use element and other provisions of the general plan.
 - Objective 2, Policy A, Chapter 1 of the Utah County General Plan reads as follows: "*Planning for the residential growth of the county, the priority of location choice is: first, within existing municipalities; second, in unincorporated communities and areas that have an existing water system approved for culinary use and fire suppression with the capacity to provide for additional development; and third, on zoning lots in the unincorporated areas of the county which comply with all applicable requirements for residential use of the underlying zone.*"

According to the above statement, nonconforming lots of record do not appear to be the ideal source for new dwelling sites.
2. The application must meet the requirements of Section 7-23-C-2, which requires the amendment to be in the best interest of the health, safety, and welfare of the public.
 - The proposal may lead to the establishment of an unspecified number of additional dwelling sites in the more open agricultural areas of Utah County. For the most part, these subject parcels are spread-out west of Spanish Fork and Payson, as well as near Lehi. There are some areas with clusters of these parcels. These nonconforming lots, if the updated proposal is approved, would be developed outside the subdivision process, which establishes dwelling sites that conform with all of the zoning and subdivision requirements.
3. The application must meet the requirements of Section 7-23-C-3, which requires the amendment to more fully carry out the general purposes and intent of the Ordinance.

- Subsection 1-2-A of the Utah County Land Use Ordinance establishes the following as an intent of said Ordinance: *"To encourage and facilitate orderly growth and development in the county."*

Staff believes that the subdivision process provides a more orderly process for establishment of dwellings sites, rather than an amendment of the Land Use Ordinance.

UPDATED STAFF RECOMMENDATION

That the Utah County Planning Commission consider recommending to the Utah County Commission **approval** of the proposed land use ordinance amendment to Subsection 1-6-J, dealing with nonconforming lots of record, only if the Planning Commission makes the following findings:

1. That the proposed amendment of the Utah County Land Use Ordinance does conform to the land use element and other provisions of the general plan.
2. That the proposed amendment of the Utah County Land Use Ordinance is in the best interest of the health, safety, and welfare of the public.
3. That the proposed amendment of the Utah County Land Use Ordinance would more fully carry out the general purposes and intent of said Ordinance.

****Original Staff Report****

II. STAFF ANALYSIS:

The word "Subdivision" is defined in the Utah County Land Use Ordinance (UCLUO or Ordinance). This definition defines what a subdivision is and what it is not. According to the first paragraph (Subsection 2-2-A-130-a, UCLUO) of this definition, a subdivision is as follows:

"A subdivision is any land that is divided, re-subdivided or proposed to be divided into two or more lots, parcels, sites, units, plots, or other division of land for the purpose, whether immediate or future, for offer, sale, lease, or development, either on the installment plan or upon any and all other plans, terms, and conditions."

This lengthy definition goes on to further define what a subdivision is or isn't. One portion of the definition (Subsection 2-2-A-130-c-ii, UCLUO), which defines what a subdivision isn't, reads as follows:

"c. Subdivision does not include:

- ii. a recorded agreement between owners of adjoining properties adjusting their mutual boundary if:*
 - (A) no new lot is created; and*
 - (B) no lot which would qualify as a dwelling site is created from a lot (or lots or parcels) previously not eligible to have a dwelling; and*
 - (C) the adjustment does not violate any provision of this Land Use Ordinance."*

The proposed amendment addresses the second qualification or condition under Subsection 2-2-A-130-c-ii. Language for the proposal was not submitted by the applicant, rather he provides a description of his proposal. This description reads as follows:

"The proposed amendment to the wording would allow the changing of parcel lines from one parcel that is currently compliant to an adjacent parcel (s) that is/are currently non-compliant in the requirement of acreage only, as long as the housing density is not increased, and as long as all other requirements were currently compliant. An example is two or more adjacent & contiguous parcels lie within a zone that requires a minimum of 5 acres. One parcel is larger than 5 acres and one or more adjacent & contiguous parcels are less than 5 acres. All parcels meet all of the current zoning requirements with the exception of the deficiency in parcel acreage. This new provision or wording would allow the bigger parcel to give acreage to the deficient parcel (s), making all parcels compliant to all zoning requirements, while still limiting the density to be 1 house per 5 acres.

A restriction to the wording would limit the number of adjacent & contiguous parcels to five (5) or less. Another restriction would only allow for the exchange of the exact acreage needed for the five (5) or less, non-compliant parcel (s) to become compliant. The total starting parcel acreage would need to be greater than or equal to the number of parcels being altered multiplied by the maximum density."

Again, considering the second condition or qualification of Subsection 2-2-A-130-c-ii, UCLUO, an adjustment of the boundary between adjoining properties (not a platted lot because adjustment of these is treated elsewhere in the Ordinance) by a recorded agreement (i.e., a boundary line agreement) is not a subdivision, if a new dwelling site is not established (the other two conditions of the subsection must be met). According to the applicant's proposal, a new dwelling site could be established by adjusting the boundaries of a property or parcel by a recorded agreement. The proposal would not allow for the establishment of new parcels or lots, but would allow an ineligible parcel—because of a deficiency in required area, only—to become eligible through adjusting boundaries with a parcel that has more than sufficient area for the zone.

This amendment would include limitations on the ability to carry-out the boundary adjustment described in this proposal. For example, it appears such a boundary adjustment(s) could only lead to a maximum of five (5) new dwelling sites. Further, a parcel could only be given the exact acreage needed to comply with the area requirement of the zone. The proposal (considering the effect of other requirements in the Ordinance) would require that the parent parcel (the sending parcel) retain sufficient area to meet the area minimum for the zone and yet have sufficient land to send to the other receiving parcels involved in the boundary adjustment. In speaking with the applicant's surveyor, one of the ideas incorporated into the proposal would make it so a (legal) nonconforming lot could not lose land in the type of boundary line adjustment scenario described above. There are other existing provisions of the Ordinance that would preclude a nonconforming lot of record to be reduced in size.

As will be explained in greater detail in the *Staff Findings* section of this report, Staff recommends denial of this application, as it would lead to the creation or establishment of dwelling sites without going through the subdivision process.

Further, staff consulted with the Utah County Attorney's Office regarding this proposal. The Attorney's Office reminded Community Development staff that definitions in the Ordinance do not establish permit approval processes, or in this case, paths for establishment of dwelling sites. If the County were inclined to approve an amendment to the Land Use Ordinance—that incorporates the ideas put-forth by the applicant, such amendment would need to include more than a change to the subdivision definition.

Because staff is recommending denial of this proposal and the applicant has not submitted specific language for his proposal, no proposed text amendment language is included in this staff report.

Current Language of Subsection 2-2-A-130, Definition of Subdivision

2-2: DEFINITIONS

A. For purposes of this land use ordinance, definitions are provided for the following terms. Not all of the terms are used in this land use ordinance. The inclusion of any term defining a land use does not imply that the term is a permitted or conditionally permitted use in any zone, unless specifically stated as such in the applicable zone. Any term which is defined, but not used in this land use ordinance, is included to differentiate the term from other terms which are used in this land use ordinance:

130. Subdivision:

- a. A subdivision is any land that is divided, re-subdivided or proposed to be divided into two or more lots, parcels, sites, units, plots, or other division of land for the purpose, whether immediate or future, for offer, sale, lease, or development, either on the installment plan or upon any and all other plans, terms, and conditions.*
- b. Subdivision includes:*
 - i. the division or development of land whether by deed, metes and bounds description, devise and testacy, map, plat, or other recorded instrument; and*
 - ii. except as provided in Subsection (c) of this Section, divisions of land for residential and nonresidential uses, including land used or to be used for commercial, agricultural, and industrial purposes.*
- c. Subdivision does not include:*
 - i. a bona fide division or partition of agricultural land for agricultural purposes which complies with all of the requirements of chapter 3 of this ordinance.*
 - ii. a recorded agreement between owners of adjoining properties adjusting their mutual boundary if:*
 - (A) no new lot is created; and*
 - (B) no lot which would qualify as a dwelling site is created from a lot (or lots or parcels) previously not eligible to have a dwelling; and*
 - (C) the adjustment does not violate any provision of this Land Use Ordinance.*
 - iii. a recorded document, executed by the owner of record,*
 - (A) revising the legal description of more than one contiguous unsubdivided parcel of property into one legal description encompassing all such parcels of property; or*
 - (B) joining a subdivided parcel of property to another parcel of property that has not been subdivided, if the joinder does not violate any provision of this Land Use Ordinance.*
 - iv. a bona fide division or partition of land for the purpose of siting, on one or more of the resulting separate parcels:*
 - (A) an unmanned facility appurtenant to a pipeline owned or operated by a gas corporation, interstate pipeline company, or intrastate pipeline company; or*
 - (B) an unmanned telecommunications, microwave, fiber optic, electrical, or other utility service regeneration, transformation, retransmission, or amplification facility; or*

- (C) *an unmanned in-line hydroelectric generating facility with a generating capacity not exceeding 500 kilowatts; or*
- (D) *an electrical transmission line or a substation.*
- v. *a recorded agreement between owners of adjoining subdivided properties adjusting their mutual boundary if:*
 - (A) *no new dwelling lot or housing unit will result from the adjustment; and*
 - (B) *no lot which would qualify as a dwelling site is created from a lot (or lots) previously not eligible to have a dwelling; and*
 - (C) *the adjustment will not violate any provision of this Land Use Ordinance.*
- vi. *the deeding and dedication of a portion of a parcel of real property to the respective governmental entity for a federal highway, a state highway, or a city street, if the respective governmental entity accepts the dedication, and provided that:*
 - (A) *no lot which would qualify as a dwelling site is created from a lot (or lots or parcels) previously not eligible to have a dwelling; and*
 - (B) *the deeding and dedication does not violate any provision of this Land Use Ordinance.*
- vii. *the deeding and dedication of a portion of a parcel of real property to Utah County for a county road, if Utah County accepts the dedication, and provided the deeding and dedication does not violate any provision of this Land Use Ordinance.*
- viii. *the joining of a subdivided parcel of property to another parcel of property that has not been subdivided.*
- ix. *a recorded agreement between owners of adjoining properties adjusting their mutual boundary if:*
 - (A) *no additional parcel is created; and*
 - (B) *each property identified in the agreement is unsubdivided land, including a remainder of subdivided land.*

Applicable Ordinances and Statutes

1. **Subsection 1-2** of the Utah County Land Use Ordinance identifies the intent and purposes of the Ordinance.
2. **Subsection 2-2-A-130** of the Utah County Land Use Ordinance establishes the definition of Subdivision.
3. **Subsection 7-23-C and Section 7-25** of the Utah County Land Use Ordinance establish the criteria for Planning Commission recommendation of approval to the County Commission for any land use ordinance or zone map amendment.
4. **Subsection 17-27a-103-(62)** of the Utah Code establishes the definition of Subdivision.

III. STAFF FINDINGS:

1. The application for a zone map amendment must meet the requirements of Section 7-23-C-1 of the Utah County Land Use Ordinance, which requires the amendment to conform to the land use element and other provisions of the general plan, including:

- A portion of the *Major streets* Section of Chapter 3 (Transportation and Traffic Circulation Element) of the Utah County General Plan states the following:

"Many existing county roads designated as an arterial road or as a collector road do not have as wide a right-of-way or paved surface as is needed to function under these designations. Additional right-of-way should be obtained for the land needed to widen and upgrade the paved surface, shoulders and clear areas of these major roads."

The planned subdivision process includes a requirement for dedication of road right-of-way. A portion of Subsection 6-3-D-5-d of the Ordinance states: *"The applicant shall be required to dedicate ownership of the portion of the required right-of-way which he or she owns to the County or other applicable governmental entity."* This required dedication helps the County acquire rights-of-way for the County road system.

If an amendment were approved that incorporated the applicant's proposal, the County may not receive road dedications they would otherwise. The losses could be somewhat substantial. The applicant's proposal would allow for a land transaction(s) that could lead to the establishment of up to five (5) dwelling sites outside the subdivision process. Under a single scenario where a property owner(s) could maximize this proposed allowance, the County could lose out on nearly a quarter mile of dedicated road way. Through the subdivision process, the County can acquire road right of way without expending County funds.

2. The application must meet the requirements of Section 7-23-C-2, which requires the amendment to be in the best interest of the health, safety, and welfare of the public.
 - This proposal may benefit certain property owners by providing a less expensive and less time-intensive avenue for them to establish qualifying dwelling sites, as opposed to going through the subdivision process.
 - This proposal could lead to fewer situations where road right of way is dedicated to the County and fewer situations where roads are improved and made safer for the public. There are benefits to the public when a developer goes through the subdivision process, such as improved roads, cleared rights-of-way (of power poles and other infrastructure), and dedication of roads to the public. There are additional benefits to the public when lots are platted. Some of these benefits include, but are not necessarily limited to, engineered irrigation plans, the establishment of utility easements, the platting of recorded easements, inspection and treatment of noxious weeds, and drainage improvements.
3. The application must meet the requirements of Section 7-23-C-3, which requires the amendment to more fully carry out the general purposes and intent of the Ordinance, including:

- Subsection 1-2-B of the Utah County Land Use Ordinance establishes the following as an intent of said Ordinance: "To secure economy in governmental expenditures in the process of development."

As noted above, the subdivision process aids the County in acquiring road right-of-way and solidifying the County road system without cost to the County.

- Subsection 1-2-H of the Utah County Land Use Ordinance establishes the following as an intent of said Ordinance: "To lessen the hazards to persons and property from fires, floods, traffic hazards, and other dangers."

The subdivision process—with its requirements for road improvements and clearing of rights-of-way—helps to make rights-of-way safer for the public. As noted above, existing power poles and other infrastructure are required to be moved out of the right-of-way included in a subdivision application. Further, existing roads are widened through the subdivision process. The applicant's proposal would allow for the establishment of dwelling sites without key considerations, such as road improvements and right-of-way safety.

- Subsection 6-1-A-1 of the Utah County Land Use Ordinance contains the following intent and purpose of the Large Scale Development chapter (Chapter 6): "To provide a means for the efficient and orderly residential, commercial and industrial development of the county in accordance with the county general plan."

The applicant's proposal would allow for the establishment of some dwelling sites with a more efficient process, namely by establishing them by a recorded instrument, but this process would not necessarily lead to a more orderly process. As noted above, the subdivision process is a more thorough development process that leads to more public benefits, especially in relation to dedicated, cleared, and improved rights-of-way.

- Subsection 6-1-A-3 of the Utah County Land Use Ordinance contains the following intent and purpose of the Large Scale Development chapter (Chapter 6): "To facilitate an economic arrangement of buildings, circulation systems, land use, drainage, and utilities."

Staff is concerned this proposal could potentially be somewhat of a hindrance to facilitating an economic arrangement of circulation systems. As stated above, this proposal may lead to fewer subdivision applications, which may translate into fewer instances of road right-of-way being dedicated to the County and a more difficult and expensive process for the County to obtain road right-of-way.

IV. STAFF RECOMMENDATION

That the Utah County Planning Commission consider recommending to the Utah County Commission **denial** of the proposed land use ordinance amendment to Subsection 2-2-A, dealing with the definition of subdivision, due to the following reasons:

1. That the proposed amendment to the Utah County Land Use Ordinance may not necessarily conform with all of the provisions of the General Plan.

2. The proposed amendment to the Utah County Land Use Ordinance may not necessarily be in the best interest of the health, safety, and welfare of the public.
3. The proposed amendment to the Utah County Land Use Ordinance may not necessarily or more fully carry out the general purposes and intent of the Utah County Land Use Ordinance.

**UTAH COUNTY LAND USE ORDINANCE
(Applicable Sections)**

1-2: INTENT AND PURPOSE

It is the intent and purpose of the Board of County Commissioners of the County of Utah, State of Utah, to avail itself of the powers granted under Title 17, Chapter 27a, of the Utah Code Annotated 1953, as amended, in a manner that will promote the health, safety, morals, convenience, order, prosperity, and general welfare of the present and future inhabitants of Utah County, and to this end:

- A. To encourage and facilitate orderly growth and development in the county.
- B. To secure economy in governmental expenditures in the process of development.
- C. To promote efficient and economical utilization, conservation, and production of land, water, and other resources and facilities.
- D. To foster the county's agricultural and other industries.
- E. To facilitate adequate provisions for transportation, water, sewage, schools, parks, and other public requirements.
- F. To reduce the waste of physical, financial, and human resources resulting from excessive scattering of population.
- G. To lessen congestion in the streets, prevent the overcrowding of land, and provide adequate light and air.
- H. To lessen the hazards to persons and property from fires, floods, traffic hazards, and other dangers.
- I. To promote a more attractive and wholesome environment.
- J. To create conditions favorable to prosperity, civic activities, and recreational, educational, and cultural opportunities.
- K. To protect both urban and non-urban development.
- L. To enforce the provisions of this ordinance and to minimize the exceptions or variances hereto.

7-23: POWERS AND DUTIES OF THE PLANNING COMMISSION

- C. The Planning Commission may propose a land use ordinance and zone map for Utah County or may propose amendments of an existing land use ordinance or zone map to the County Commission, and may adopt procedures for the proposals to be initiated by its members, its staff, or members of the public at large. The Planning Commission shall also consider and give its recommendations on any amendment to the land use ordinance which

is proposed by the County Commission and submitted to the Planning Commission for recommendation. Before the Planning Commission proposes any land use ordinance or zone map amendment, or makes a favorable recommendation of an amendment, it shall find that:

1. The amendment will conform to the land use element and other provisions of the general plan (or conform to a proposed amendment to the general plan which is considered concurrently with the zoning amendment).
2. The amendment is in the best interest of the health, safety, and welfare of the public.
3. The amendment will more fully carry out the general purposes and intent of this ordinance.
4. In considering a proposed amendment to the land use ordinance or zone map, the Planning Commission may submit a recommendation to the County Commission for or against the proposal, or it may recommend an alternate amendment.

7-25: AMENDMENTS TO ORDINANCE AND MAP

- A. Either the Planning Commission or the County Commission may propose amendments to this Land Use Ordinance or the zone map.
- B. Any other person or organization seeking an amendment of the Land Use Ordinance or zone map shall petition the Planning Commission, in writing, to initiate such amendment using the petition forms and procedures adopted by the Planning Commission. The petitioner shall designate fully and clearly on the forms the change desired and the reasons therefor.
- C. Upon receipt of the petition, the Planning Commission shall consider the amendment request and may: recommend approval, approval with change, disapproval, or hold the matter for future consideration.
- D. All recommended amendments shall conform to the general plan (or to proposed amendments to the general plan which are adopted concurrently with the land use amendment) and be consistent with the other provisions of this land use ordinance.
- E. Amendments to this ordinance may be adopted by the County Commission only after a public hearing by the Planning Commission at which parties of interest and other persons have an opportunity to be heard. Notice of the date, time and place of the first public hearing to consider the adoption or modification of the Land Use Ordinance shall be made as specified herein.

From: Ryan Schramm <sscaping93@gmail.com>
Sent: Saturday, May 5, 2018 7:44:55 AM
To: Brandon Larsen
Subject: Re: Map

Brandon,

Our desire at this point is to present to the counsel a text amendment, which would add the RA-5 zone to the list of non conforming lots that a one family dwelling could obtain a building permit for. This section of code currently allows for RR-5 and TR-5 lots to receive a permit.

Call me Monday if you have any question and thank you for all your help.

Ryan Schramm
Schramm's Landscaping & Sprinkler LLC
801-372-2234
sscaping93@gmail.com

UTAH COUNTY COMMUNITY DEVELOPMENT
APPLICATION TO AMEND THE LAND USE ORDINANCE

(All application fees are non-refundable)

Check the approval(s) needed: <input type="checkbox"/> Planning Commission <input checked="" type="checkbox"/> County Commission	Application taken by: <u>BL</u> Date <u>2/20/18</u> Fee Paid <u>\$ 300.00</u> Receipt # <u>15243</u>
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All Land Use Ordinance amendments are subject to a recommendation by the Planning Commission and final approval by the County Commission.

In preparation of any Land Use Ordinance amendment, consideration will be given to the Utah County General Plan, the intent stated within the Land Use Ordinance, and encouragement of the most appropriate use of land throughout the county. No application should be approved when it is determined that the proposed amendment does not promote the health, safety, morals, convenience, or general welfare of the public.

Applicant's Name: <u>Ryan Schramm</u>	Date: <u>2/19/18</u>
Mailing Address: <u>2055 S. Parkview Dr</u> City <u>Mapleton</u> State <u>Ut</u> Zip <u>84664</u>	
Phone: _____	Cell: <u>801-372-2234</u> Fax: <u>801-489-8464</u>
<u>S5Scaping@a</u> <u>S5Scaping93@gmail.com</u>	

Refund Information: If this application fee, or any portion of the application fee is to be refunded, please indicate Name and Mailing Address where refund may be sent.

Name: Ryan Schramm
Mailing Address: 2055 S Parkview Dr. City Mapleton State Utah Zip 84664

(Attach additional sheets or documents to the application)

1. Section(s) of the Land Use Ordinance to be amended: _____
See attached sheet

2. Describe in detail the proposed Land Use Ordinance amendment: _____

3. How will the proposed Land Use Ordinance amendment avoid causing additional adverse conditions?

4. In what ways does the proposed Land Use Ordinance amendment promote the health, safety, morals, convenience, or general welfare of the public? _____

To the best of my knowledge the above information is accurate and complete.



Signature of Applicant

#1 The Section of the Land Use Ordinance to be amended is under the definition of what a subdivision isn't which is located in Chapter 2, Page 16, #128, sub-section II-B.

#2 The proposed amendment to the wording would allow the changing of parcel lines from one parcel that is currently compliant to an adjacent parcel (s) that is/are currently non-compliant in the requirement of acreage only, as long as the housing density is not increased, and as long as all other requirements were currently compliant. An example is two or more adjacent & contiguous parcels lie within a zone that requires a minimum of 5 acres. One parcel is larger than 5 acres and one or more adjacent & contiguous parcels are less than 5 acres. All parcels meet all of the current zoning requirements with the exception of the deficiency in parcel acreage. This new provision or wording would allow the bigger parcel to give acreage to the deficient parcel (s), making all parcels compliant to all zoning requirements, while still limiting the density to be 1 house per 5 acres.

A restriction to the wording would limit the number of adjacent & contiguous parcels to five (5) or less. Another restriction would only allow for the exchange of the exact acreage needed for the five (5) or less, non-compliant parcel (s) to become compliant. The total starting parcel acreage would need to be greater than or equal to the number of parcels being altered multiplied by the maximum density.

#3 The proposed amendment restrictions would only allow a limited number of parcels to be altered while maintaining the required density within the specific zone. Maintaining the required density is generally the intent of most residential zoning.

#4 Allowing the parcels to become compliant and in harmony within the current zoning allows those land owners the same rights and abilities as other land owners within that zone. This could promote a form of equality among neighboring land owners. By maintaining the allowed density, whether parcels are classified as a subdivision or non-subdivision, the affect would be no more or less than any other parcel that is or isn't classified as a subdivision. Zoning classifications are put in place to protect the land owner's rights, while allowing development within the zone based on the requirements and maintaining equality & unity throughout the zone.

UTAH COUNTY PLANNING COMMISSION

**Minutes
May 15, 2018**

Present: Thomas Liddle, Chair
Karen McCandless
Vern Keeslar
Blaine Thatcher
Judi Pickell
Jennifer Baptista

Excused: Robert McMullin

Bryce Armstrong, Associate Director, Community Development
Robert Moore, Deputy County Attorney
Joshua Ivie, Secretary

OTHERS PRESENT: Peggy Kelsey, Brandon Larsen, Utah County Community Development; Rex Larsen, Jeff Schramm, Ryan Schramm, LouJean Wilson, Dave Hunt.

The meeting was called to order at 5:30 PM by Thomas Liddle, Chair of the Utah County Planning Commission at 100 E Center St, Room 1400, of the Utah County Administration Building, located in Provo, Utah. Vern Keeslar led the assembled body in the Pledge of Allegiance.

APPROVAL OF MINUTES

Motion: Jennifer Baptista Second: Karen McCandless

Motion to **approve** the minutes of the April 17, 2018 meeting of the Utah County Planning Commission. The motion passed by the following vote: "Aye", Thomas Liddle, Karen McCandless, Vern Keeslar, Blaine Thatcher, Judi Pickell, Jennifer Baptista; "Nay", none.

LAND USE ORDINANCE TEXT AMENDMENT

Motion: Karen McCandless Second: Jennifer Baptista

Motion to **open** the Public Hearing portion of the meeting. The motion passed by the following vote: "Aye", Thomas Liddle, Karen McCandless, Vern Keeslar, Blaine Thatcher, Judi Pickell, Jennifer Baptista; "Nay", none.

Ryan Schramm - Proposed Utah County Land Use Ordinance text amendment to Subsection 2-2-A, relative to the definition of "Subdivision" (continued from March 27, 2018 meeting) [Public Hearing]

Brandon Larsen introduced the application and summarized the purpose of the proposed text amendment. Larsen explained that the applicant's proposal would allow for a dwelling site to be established through a boundary line agreement. Larsen explained that Staff was concerned that the proposed text amendment side-stepped the subdivision process, and spoke favorably of the current subdivision process. Larsen noted that the subdivision process helps establish safety parameters as well as helps the County acquire road right-of-way. Larsen then commented on the discussions that Staff had had with the applicant in the interim. Larsen then described why the applicant didn't want to go through the subdivision process and described the configuration of the applicant's property and the adjoining road. Larsen commented that Staff and the applicant had looked at amending a portion of the ordinance that would allow for the establishment of non-conforming lots of record (buildable parcels) as long as the properties met certain requirements, but had realized that this could establish up to 600 buildable parcels that were between 1 and 5 acres and began to feel less comfortable with the proposed text change. Larsen described the location of these parcels. Larsen reiterated his concern over the approval of the proposed text amendment.

Vern Keeslar asked for clarification on the map that Larsen had presented to the Planning Commission. Keeslar noted that the text amendment had components that dealt with lot size and street frontage, and that if the ordinance was approved, it would allow for lots of record that may not meet area requirements or frontage requirements to receive building permits.

Robert Moore reiterated that this is currently allowed in all other zones except for the RA-5 zone, and that this amendment would allow for this in the RA-5 zone.

There was some brief discussion between the Planning Commission and Staff as to why this might have not been allowed in RA-5 zone in the past.

Karen McCandless commented that the General Plan encourages development in cities, and asked if there were potentially developable properties near city limits. Larsen indicated that there were.

Robert Moore reiterated that the General Plan has encouraged development in cities, and commented that this was partially why developable non-conforming lots of record were not contemplated in the RA-5 zone.

Blaine Thatcher commented that he was trying to find the negative points to what the applicant had proposed.

Vern Keeslar asked for clarification on which application was before the Planning Commission (between the original and what Staff had crafted after working with the applicant). Larsen explained that both applications could be considered by the Planning Commission.

Bryce Armstrong further clarified what sections of the ordinance could be potentially amended.

Vern Keeslar asked if the boundary line adjustment proposal could occur in a platted subdivision and noted that he would have concern if this were allowed. Larsen indicated that this can occur.

There was some brief discussion between legal counsel, Staff, and the Planning Commission about this and why there would be concern over this.

Vern Keeslar commented that if a developer is given minimum requirements they will be inclined to meet them.

Bryce Armstrong clarified a section of the ordinance that contemplates that a property cannot be broken down below the minimum area and setbacks, and noted some of the problematic elements of the proposal.

Vern Keeslar then asked for clarification on Staff's recommendation.

Bryce Armstrong reiterated Staff's concern over the creation of substandard building lots through the proposed amendment, and noted that the applicant does have the option to go through the subdivision process.

Robert Moore briefly described the process Staff had gone through, and noted that Staff's preferred route would be the subdivision process and clarified the options open to the Planning Commission relative to the matter.

Jennifer Baptista asked if there was a breakdown of the lot sizes of the parcels that would be affected by the proposal. Larsen indicated that there was not. Baptista then noted that not having the breakdown caused her some concern.

There was some brief clarifying discussion in which Larsen noted that all of the 600 potentially-affected parcels had road frontage.

Vern Keeslar asked when a lot that was less than an acre would be eligible for a building permit. Armstrong explained the criteria that these properties would have to meet.

There was further clarifying discussion in which Larsen clarified that he, in his research for this proposal, tried to identify parcels that did not have dwellings on them.

Robert Moore commented that the application could be considered a significant departure from the General Plan.

Ryan Schramm, applicant, addressed the Planning Commission. Ryan Schramm asked if drilling a well on his property was prohibited. Ryan Schramm explained that the reason he applied for the text amendment is because his property was just slightly under the required acreage for a

subdivision. Larsen commented that he wasn't aware of any prohibition for drilling a well on the property.

There was then some discussion over the location of the centerline of the road easement on the applicant's property.

Dave Hunt, the applicant's surveyor, addressed the Planning Commission. Hunt suggested that both of the applicant's property and the parcel across the street were surveyed at the same time, and offered an explanation as to why the centerline of the road is located where it is.

Ryan Schramm asked for clarification on the second proposal. Larsen then offered clarification on the definition of a non-conforming lot of record.

Robert Moore asked Ryan Schramm if his neighbor would dedicate their portion of the road, and suggested that if the whole road was dedicated through the subdivision process, Ryan Schramm may meet those requirements.

Vern Keeslar asked Ryan Schramm for the current acreage of the subject property.

There was some brief discussion as to whether or not the applicant would lose any area if the entire road was dedicated.

Ryan Schramm then described the configuration of his properties and gave some of the history of the properties.

Judi Pickell suggested that this looks like a surveying issue and that to change the ordinance seems heavy-handed.

There was some brief discussion on how to proceed with the application.

Jeff Schramm addressed the Planning Commission. Jeff Schramm asked for clarification on whether or not the County already has an easement on the road.

There was some discussion about easements on that road and whether or not there was a historic easement on that road.

Dave Hunt offered a suggestion as to how the dedication between neighbors could happen.

Blaine Thatcher suggested that the Planning Commission had an obligation to look at how the proposed text change would apply to the applicant and other property owners, and didn't see the proposed text amendment as a dramatic expansion of building lots. Thatcher then noted that he

was supportive of the first proposal, and questioned why there would be concerns over approving the second proposal.

Thomas Liddle suggested that the ordinance is attempting to protect agricultural land.

Blaine Thatcher suggested there would be limited situations in which the application could be applied, and that the assumption was that all requirements would otherwise be met.

Jennifer Baptista suggested that the RA-5's agricultural nature would not change with the proposed text amendment. Baptista suggested that an argument could be made that the minimum acreage requirement for the RA-5 zone shouldn't be that high.

Ryan Schramm asked that the Planning Commission continue the application unless the Planning Commission is ready to approve it.

There was clarification as to how to proceed and how the recommendation would be applied to the applicant.

Ryan Schramm then asked how many of these types of applications had come before the Planning Commission. Larsen explained that Staff had not seen many requests.

Bryce Armstrong suggested that any time a change to the ordinance is contemplated, the extreme needs to be taken into consideration.

Robert Moore commented that the county has not built infrastructure to service homes in the county.

There was some brief discussion between legal council and the Planning Commission as far as the infrastructure that would be needed in order to accommodate development in the county.

Blaine Thatcher commented that he didn't see the proposal changing the nature of the subject zone or the General Plan.

Vern Keeslar commented that the public would be concerned over the lessening of the potential for wells in that zone. Keeslar then spoke against the proposal.

Blaine Thatcher asked if the assumption was that the 600 land owners were expecting the delivery of municipal services.

There was some discussion amongst the Planning Commissioners as to what assumptions land owners may have about living in unincorporated Utah County.

Judi Pickell suggested that the General Plan contemplates what should be developed and where.

There was some discussion about the purpose of the General Plan.

Dave Hunt commented that if the applicant is required to acquire additional acreage, they aren't increasing the density in the area.

Robert Moore commented that is currently allowed through the subdivision process. Moore than summarized the affect of approving the proposed text change and how it would affect the applicant's properties. Moore noted that a non-conforming lot of record would not be required to dedicate roads to the county.

There was some brief clarifying discussion regarding when a road would be dedicated to the County. There was also discussion related to, subject to the approval of the proposed text change, when an individual would be able to build a home on a non-conforming lot of record.

Blaine Thatcher commented that the proposed text change would only apply to lots of record, and that the properties already existed.

Robert Moore reiterated that the ability to build on these lots was phased out in the late seventies, and that if a property owner did not take advantage of the ability to build on these lots, they lost the rights to.

Karen McCandless indicated that she supported the denial of the application, explaining that things have changed over time and suggested that it may be time to re-evaluate the needs of the county. McCandless suggested that there may be individuals who would suggest that this type of proposal go through the General Plan process.

Ryan Schramm commented that the best thing to do would be to vote on the issue so he knows how to proceed. Ryan Schramm noted that the Planning Commission would be voting on the second application, and that he would withdraw the first application.

Bryce Armstrong clarified which section of the ordinance would be amended if the application were approved.

Motion: Karen McCandless

Second: Judi Pickell

Motion that the Planning Commission recommend to the County Commission **denial** of the proposed land use ordinance amendment to section 1-6-J dealing with nonconforming lots of record based on the following finding:

1. That the proposed amendment of the Utah County Land Use Ordinance does conform to the land use element and other provisions of the general plan.

The vote tied with the following votes: "Aye," Karen McCandless, Judi Pickell, Vern Keeslar. "Nay," Thomas Liddle, Blaine Thatcher, Jennifer Baptista. No alternative motion was made.

Utah Co. Planning Commission - Proposed Utah County Land Use Ordinance text amendment to Section 6-1 and Chapter 7, related to amendments to large scale development plats (continued from April 17, 2018 meeting) [Public Hearing]

Brandon Larsen introduced the application. Larsen explained that the current ordinance contemplates three types of plat amendment applications, and that Staff is proposing the idea of eliminating these three types of plat amendments and asserting that all plats must meet the current requirements of the ordinance. In addition to this, Staff has proposed that plat amendments go straight to the County Commission; the County Commission would then have the discretion to refer a plat amendment back to the Planning Commission. Larsen added that there was a provision that non-conforming lots would not be held to today's standards. Larsen then stated that there was a provision in the proposed ordinance that would require seasonal developments to go through the subdivision process if the seasonal nature of the plat were to change. Larsen then described the prohibitions contemplated in the ordinance relative to increasing the number of lots available for residential use. Larsen then spoke about a provision in the proposed ordinance that would require an applicant to come to the County Commission if they have changed their plat after their initial application had been approved.

Larsen then commented that the purpose of the proposed text change was to speed up the application process as well as to make the requirements simpler to understand. Larsen then spoke to some of the challenges that applicants face under the current ordinance. Larsen then indicated that Staff would recommend approval of the proposed text amendment.

Jennifer Baptista asked if applications that qualified under the proposed ordinance would bypass the Planning Commission. Larsen indicated that they would. Baptista then asked for clarification on the public process for these applications. Larsen clarified that most plats don't have a public hearing, and that most plats will have meetings at the County Commission level.

Karen McCandless asked if this was considered an administrative process. Larsen indicated that it was.

Robert Moore clarified the difference between an administrative process and a legislative process.

There was some brief discussion about when the Planning Commission would allow for public comment.

Vern Keeslar asked for clarification on the part of the proposed text change that contemplated the elimination of the requirement that a plat amendment comply with the parameters, restrictions, and requirements applicable to the original development.. Keeslar then voiced concern over the

possibility of new buildings not being held to the same standards in a subdivision. Larsen suggested that the ordinance has gotten more strict over the years.

There was discussion between Staff and the Planning Commission relative to the requirements that would affect existing subdivisions through the plat amendment process.

Vern Keeslar commented on the purpose of zoning, and raised concern over items not going before the Planning Commission.

Karen McCandless commented that she liked the idea of streamlining the process, and suggested that the Planning Commission should refrain from being involved in administrative matters, and that the Planning Commission should focus on legislative matters.

Vern Keeslar agreed with McCandless' comments regarding administrative and legislative matters.

Robert Moore clarified that new lots would not be created through the plat amendment process.

Brandon Larsen reiterated his support for streamlining the plat amendment process.

Blaine Thatcher asked for clarification on what the process would be if someone wanted to add lots to a subdivision. Larsen explained that the applicant would have to go through the regular subdivision process.

Bryce Armstrong reiterated that anything that would be changing on a plat would have to comply with the current requirements. Armstrong then gave an example of when Staff would prefer an amendment to comply with current requirements.

Armstrong then briefly described the plat amendment process.

Bryce Armstrong noted that, under the proposed text amendment, only the element that was changing on the plat would be held to current standards.

Blaine Thatcher asked for clarification on when reducing the setback on a property would be allowed.

Bryce Armstrong explained that these amendments would happen on a lot-by-lot basis unless they all participate in the amendment.

Karen McCandless suggested that property owner could continue to use the previous requirements if desired.

Robert Moore reiterated that no one was being forced to amend their plat, and that the property owner could come in for an amendment in order to take advantage of a different requirement.

There was some general discussion as to when it might be advantageous for an applicant to be subject to the new requirements.

Vern Keeslar suggested that this proposal gives added flexibility for an applicant, and suggested that an applicant wouldn't come in for a plat amendment if the old requirements benefited them.

Robert Moore gave an example of when a setback issue might be addressed and noted that only the part of the plat that an applicant is modifying would be the focus of the application.

Vern Keeslar suggested that he felt more at ease with his concerns, and suggested changing the wording on an item in the proposed ordinance.

Brandon Larsen explained if the language Keeslar proposed was added, it would inadvertently cause problems for an application that is nearing completion. Keeslar then explained his concern over road vacations.

There was some discussion relative to road vacations and dedications and modifying the language of the proposal in a way that contemplates this.

Blaine Thatcher commented that he was concerned that other requirements would present themselves when an applicant makes an application for a plat amendment.

Bryce Armstrong highlighted a section of the proposal that stated that only the elements that are being addressed in the plat amendment application will be subject to current development requirements, standards, and conditions.

Brandon Larsen commented that those terms are found in the ordinance and are not meant to be subjective. Larsen added that the amendment will help Staff to tie an application to the ordinance.

There was some discussion about the subjectivity of the proposed ordinance and the benefits of adding for more flexibility.

Motion: Vern Keeslar

Second: Judi Pickell

Motion that the Utah County Planning Commission recommend to the Utah County Commission **approval** of the proposed amendment to Sections 6-1-E-27 and 7-23-E of the Utah County Land Use Ordinance, related to amendments to large scale development plats, based on the following

findings as well as Staff Findings located in the Staff Report with one modification to the proposed ordinance¹:

1. That the proposed amendment to the Utah County Land Use Ordinance does not appear to be out of harmony with the Land Use Element and other provisions of the General Plan.
2. The proposed amendment to the Utah County Land Use Ordinance appears to be in the best interest of the health, safety, and welfare of the public.
3. The proposed amendment to the Utah County Land Use Ordinance appears to more fully carry out the general purposes and intent of the Utah County Land Use Ordinance.

The motion passed by the following vote: "Aye", Thomas Liddle, Karen McCandless, Vern Keeslar, Blaine Thatcher, Judi Pickell, Jennifer Baptista; "Nay", none.

Thomas Liddle verified that there were no members of the public present that wished to speak on the matter.

Rex Larsen - Proposed Utah County Land Use Ordinance text amendment to Section 3-29 to include Agritourism and associated events as a temporary use in the Residential Agricultural (RA-5) Zone and amendment to Section 2-2 to add definitions of Agritourism and Agritourism Activity [Public Hearing]

Bryce Armstrong introduced the application. Armstrong noted that Staff has been working with the applicant and has suggested an alternative to the applicant's initial proposal that includes definitions for agritourism and agritourism activities. Armstrong added that the proposal is limited to the RA-5 zone, limited to a period of 65 days, subject to a minimum size requirement, and must be deemed farmland as qualified by the Farmland Assessment Act. Armstrong then described some of the additional requirements attached to the proposal.

Karen McCandless asked if the proposed ordinance contemplated something that addressed parking dust.

Peggy Kelsey indicated that Staff had contemplated this, but because there hasn't been that big of a problem with dust in these types of settings, Staff decided, at this point, not to include it in the proposal. Kelsey then explained some of the restrictions that apply to the proposed ordinance.

Bryce Armstrong added that Staff had contemplated the minimum size of property that the proposal would be tied to, noting that these uses would be bound to a 20 acre minimum parcel.

¹ The addition (vi) to the proposed text amendment is as follows, to section 6-1-E-27-a: "Modification of large scale development plats that vacate or dedicate a street must go before the Planning Commission for a recommendation to the County Commission."

Vern Keeslar asked if “shall” or “may” was consistent with the other temporary use language. Kelsey indicated that “shall” was consistent with the other language. Keeslar then spoke in favor of the 65 day limit.

There was some brief discussion on the 65 day annual limit.

Jennifer Baptista asked what the dust mitigation plan would require. Kelsey indicated that the applicant would be required to submit a dust mitigation plan and explained some of the criteria that may apply to this.

There was some brief discussion on the requirements for a dust mitigation plan.

Jennifer Baptista asked if there were going to be further amendments to this part of the ordinance. Armstrong suggested that the proposal addressed the foreseeable issues.

Peggy Kelsey indicated that corn mazes are a permitted temporary use but that the applicant wanted to take that one step further. Kelsey then described some of the agritourism uses that people have had an interest in that were not permissible but would be under the proposed ordinance.

Blaine Thatcher then asked for clarification on whether or not educational practices could be done on someone’s private farm. Armstrong indicated that this was currently permissible but not as a commercial venture.

Rex Larsen, applicant, addressed the Planning Commission. Rex Larsen explained that a family member had recently moved back home, and wanted to help make money on their farm in order to keep it going. Rex Larsen then gave some background on how the application came to be. Rex Larsen added that he had looked at other counties’ ordinances in crafting his application.

Thomas Liddle asked if what Staff had caused him any concern. Rex Larsen indicated that it did not, but that he would like to modify the portion of the ordinance that specifies hours of operation on the weekend, based on similar commercial corn mazes.²

Peggy Kelsey clarified that some of the activities Larsen had discussed with Staff would be allowed under the proposed ordinance.

Karen McCandless spoke highly of the proposed ordinance and commented that Utah County is changing, but that it was important to remember its roots.

² The intent is to modify the hours of operation on the Friday and Saturday to go to 11 PM.

Judi Pickell asked if 65 days was enough. Armstrong indicated that Staff does get complaints on similar uses and that Staff attempted to find the balance. Armstrong added that the proposal was intended to be supplementary to an existing agricultural use.

Judi Pickell then asked if the zoning would have to change on the property if the use were to become more substantial. Armstrong explained that there are agritourism uses elsewhere that are permanent with permanent structures, and that there are challenges in the county to solve occupancy issues.

Jennifer Baptista thought that the 65 day limit may be too restrictive.

There was some brief discussion on the 65 day limit.

Rex Larsen indicated that he would be willing to try operating with the 65 day limit, noting that similar activities are four to five weekends in length. Jennifer Baptista asked Rex Larsen if he were comfortable with the 65 day limit. Rex Larsen indicated that he was.

Bryce Armstrong indicated that applicants could specify which days they would operate.

Thomas Liddle asked if there were any members of the public present that wished to speak on the matter.

Motion: Vern Keeslar

Second: Karen McCandless

Motion to **close** the Public Hearing portion of the meeting. The motion passed by the following vote: "Aye", Thomas Liddle, Karen McCandless, Vern Keeslar, Blaine Thatcher, Judi Pickell, Jennifer Baptista; "Nay", none.

Motion: Karen McCandless

Second: Jennifer Baptista

Motion to recommend **approval** to the Utah County Commission of the proposed Utah County Land Use Ordinance text amendment, as suggested by staff, to Section 3-29 to add the temporary use of "agritourism", and to Section 2-2 to add the definition of "agritourism" and "agritourism activity," based on the minimum findings addressed below³:

1. The application for the land use ordinance amendment can be shown to meet the requirements of **Section 7-23-C-1** of the Utah County Land Use Ordinance, which requires the Planning Commission to find the amendment to conform to the land use element and other provisions of the general plan;

³ The motion included the amendment to the proposed ordinance that specified that hours of operation on Fridays and Saturdays would be limited to hours between 10 AM and 11 PM.

2. The application can be shown that it meets the requirements of **Section 7-23-C-2**, which requires the Planning Commission to find the amendment to be in the best interest of the health, safety, and welfare of the public. The application can be shown to meet this requirement with the intent of providing support and economically feasible land use alternatives to local and enterprising farm and ranch owners who are devoted to their land and are committed to providing authentic, agriculturally related products, education and experiences to the public by way of a temporary use permit which has been reviewed to meet all applicable building, health, and fire-safety requirements;
3. The application can be shown that it meets the requirements of **Section 7-23-C-3**, which requires the Planning Commission to find the amendment will more fully carry out the general purposes and intent of the ordinance.

The motion passed by the following vote: "Aye", Thomas Liddle, Karen McCandless, Vern Keeslar, Blaine Thatcher, Judi Pickell, Jennifer Baptista; "Nay", none.

MOTION TO ADJOURN

Motion: Jennifer Baptista

Second: Karen McCandless

The motion passed by the following vote: "Aye", Thomas Liddle, Karen McCandless, Vern Keeslar, Blaine Thatcher, Judi Pickell, Jennifer Baptista; "Nay", none.

The meeting adjourned at 8:03 PM.

Minutes respectfully submitted by:

APPROVED BY:

Joshua Ivie, Secretary

THOMAS LIDDLE, CHAIR

Schramm - Text Amendment to Sec. 1-6-J, UCLUO

Brandon Larsen

Mon 9/17/2018 6:23 PM

To: Bill Lee <WilliamL@utahcounty.gov>; Greg Graves <GregG@utahcounty.gov>; Nathan Ivie <NathanI@UtahCounty.gov>;

Cc: Bryce Armstrong <BRYCEA@utahcounty.gov>; Robert Moore <ROBERTM@utahcounty.gov>;

 1 attachments (52 KB)

Schramm 1-6-J, Revised for CC.pdf;

Commissioners,

Attached is the updated, red-lined version of the proposed amendment to Section 1-6-J of the Utah County Land Use Ordinance (the updated language has been added to the agenda request, as well). You will remember that the original proposal was brought forward by Ryan Schramm who has a 4.99 acre non-conforming lot of record in the RA-5 Zone.

I added a requirement to this version that all non-conforming lots of record (in all zones) dedicate the portion of the non-conforming lot of record that lies in the right-of-way to the County or other applicable governmental agency (i.e., UDOT).

Regards,

Brandon Larsen
Planner
Utah County Community Development
51 S. University Ave., Ste 117
Provo, Ut 84601
(801) 851-8343
brandonl@utahcounty.gov

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1-6: NONCONFORMING USES AND NONCOMPLYING STRUCTURES

J. NONCONFORMING LOT OF RECORD

1. A nonconforming lot of record which conforms with every provision and requirement of this ordinance for a one-family dwelling or manufactured home, except for the required lot area and/or required lot width along the side abutting a state or county road, may be granted a building permit for a one-family dwelling or manufactured home notwithstanding such deficiency in lot area or width, provided:
 - a. The lot lies in the RR-5, TR-5, CE-1, CE-2, ~~or~~ M&G-1, or RA-5 zone;
 - b. The lot has existed continuously on the official records of the County Clerk or Recorder as an independent parcel since before the effective date of the lot area or width provision of the Land Use Ordinance amendment (or the initial enactment) which rendered such lot unbuildable; ~~and~~
 - c. The lot owner dedicates ownership of the portion of the lot, which lies in the right-of-way, to the County or other applicable governmental entity, unless the County or other governmental entity elects to decline receiving the dedication;
 - d. If the lot lies in the RA-5 Zone, it shall possess an area of at least 90-percent of the minimum area of a zoning lot for a one-family dwelling or manufactured home, prior to the required dedication of right-of-way; and
 - ee. Every provision and requirement of this ordinance, except for said area and width requirement, is met.
2. No provision of this Ordinance shall render an existing, platted lot unbuildable because it does not meet the lot area or width requirements of the zoning district in which it lies.
32. The right to obtain a building permit for a one-family dwelling or manufactured home on a nonconforming lot of record, as described in this subsection, can be transferred from the nonconforming lot (sending lot) to another lot (receiving lot) if all of the following conditions are found to exist:
 - a. The sending lot is a lot in private ownership located within or adjacent to the boundaries of a United States National Forest;
 - b. The sending lot meets all of the requirements, as a nonconforming lot of record, to obtain a building permit for a one-family dwelling or manufactured home;
 - c. The receiving lot is owned by the United States of America and is exchanged, in whole or in part, for all of the sending lot;
 - d. The receiving lot and the sending lot are adjacent parcels of property, or are separated by a distance of not more than one half mile;
 - e. Both the sending lot and the receiving lot are located within the CE-1 Critical Environmental Zone;
 - f. The area of the receiving lot is equal to or greater than the area of the sending lot; and
 - g. The receiving lot meets every provision and requirement of this ordinance to obtain a building permit for a one-family dwelling or manufactured home, except for the lot area and frontage width requirement.